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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/544,799 | 04/07/2000 | Jeremy A. Levitan | 1026-017/MMM127340.1 | 1559 |

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EXAMINER

SHAHER, RICKY D

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/544,799

Applicant(s)

LEVITAN ET AL.

Examiner

Ricky D. Shafer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The petition filed on 2/19/02 has been treated as a request for reconsideration of the restriction requirement set forth in Paper No. 3. In view of applicant's remarks, the restriction requirement set forth in Paper No. 3 is withdrawn. Accordingly, a new restriction requirement follows.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1-10, drawn to a microelectrical mechanical actuator comprising a planar substrate having a first conductor coupled to source at a first electrical potential, a second conductor coupled to source at a second electrical potential, a first conductive coil, and a magnet, wherein the second electrical potential is less than the first electrical potential, classified in class 335, subclass 219.
- II. Claims 11-16, drawn to a microelectrical mechanical actuator comprising a planar substrate, a first coil member, a second coil member and a magnetic flux means, wherein one end of each of the coil members is connected to the substrate and the other ends are coupled together, classified in class 335, subclass 205.
- III. Claims 17-23, drawn to a mirror actuator device comprising a first and second actuators, a mirror and a magnetic flux source, wherein each of the actuators includes first and second members, classified in class 359, subclass 876.
- IV. Claims 24-30, drawn to a microelectrical mechanical system comprising a planar substrate, a plurality of actuators, a mirror, a magnetic flux source, a first current

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source and a second current source, wherein each actuator includes an electrically conductive coil, classified in class 359, subclass 872.

- V. Claims 31-38, drawn to a microelectrical mechanical actuator comprising a planar substrate, a first magnetic-material member, a moveable device and an electromagnet, classified in class 335, subclass 147.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV and V are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, each of the inventions I, II, III, IV and V have separate utility such as a microelectrical mechanical actuator with the separate details of the other invention(s). For example, the microelectrical mechanical actuator of group II has separate utility as a microelectrical mechanical actuator without the mirror of groups III and IV, the movable device or the electromagnet of group V or the planar substrate having a first conductor coupled to source at a first electrical potential, a second conductor coupled to source at a second electrical potential, wherein the second electrical potential is less than the first electrical potential of group I; the mirror actuator of group III has separate utility as a mirror actuator without the planar substrate or first and second current sources of group IV, the electromagnet of group V, the planar substrate having a first conductor coupled to source at a first electrical potential, a second conductor coupled to source at a second electrical potential, wherein the second electrical potential is less than the first electrical potential of group I or the first and second coil members

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having one end of each of the coil members being connected to the substrate and the other ends are coupled together of group II; the microelectrical mechanical actuator of group IV has separate utility as microelectrical mechanical actuator without the electromagnet of group V, the planar substrate having a first conductor coupled to source at a first electrical potential, a second conductor coupled to source at a second electrical potential, wherein the second electrical potential is less than the first electrical potential of group I, the first and second coil members having one end of each of the coil members being connected to the substrate and the other ends are coupled together of group II or the first and second actuators each include first and second members having first ends being fixedly arranged and the second ends are electrically coupled so that current can flow between the first and second members of group III; the microelectrical mechanical actuator of group V has separate utility as a microelectrical mechanical actuator without the planar substrate having a first conductor coupled to source at a first electrical potential, a second conductor coupled to source at a second electrical potential, wherein the second electrical potential is less than the first electrical potential of group I, the first and second coil members having one end of each of the coil members being connected to the substrate and the other ends are coupled together of group II, the first and second actuators each include first and second members having first ends being fixedly arranged and the second ends are electrically coupled so that current can flow between the first and second members of group III or the first and second current sources of group IV...etc. See MPEP § 806.05(d)

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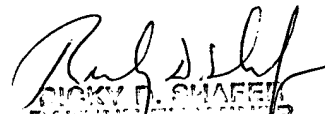
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Any inquiry concerning this communication should be directed to R.D. Shafer at telephone number (703) 308-4813.

RDS

April 30, 2003


RICKY D. SHAFER
PATENT EXAMINER
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